

Sharon

Maxus Energy Corporation  
1330 Lake Robbins Drives, Suite 300  
The Woodlands, Texas 77380

SDMS Document



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Corrine M. Hawkins  
Senior Counsel

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**MAXUS**

**FEDERAL EXPRESS**

June 27, 2000

U.S. Environmental Protection Agency, Region II  
Emergency and Remedial Response Division  
Diamond Alkali Superfund Site / Passaic River Study Area  
290 Broadway, 19<sup>th</sup> Floor, Room W-20  
New York, New York 10007-1866  
Attention: Ms. Janet Conetta, Strategic Integration Manager

RE: Administrative Order on Consent, Index No. II-CERCLA-94-0117;  
Financial Assurance

Dear Ms. Conetta

Enclosed, in accordance with the provisions of paragraph 85 of the referenced  
Administrative Order on Consent, is a Performance Bond in the amount of  
\$2,000,000, effective for the period April 20, 2000 to April 20, 2001.

Sincerely,

*Corrine M. Hawkins*

Corrine M. Hawkins  
Senior Counsel

Enclosure

cc w/enc.:

New Jersey Department of Environmental Protection  
401 East State Street, 5<sup>th</sup> Floor  
CN-028  
Trenton, New Jersey 08625  
Attention: Diamond Alkali Project Manager, Passaic River Study Area

Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 19<sup>th</sup> Floor, Room W-20  
New York, New York 10007-1866

## **PERFORMANCE BOND**

**RE: ADMINISTRATIVE ORDER ON CONSENT** executed effective April 20, 1994 (the "ACO"), by the United States Environmental Protection Agency Region II and Occidental Chemical Corporation ("OCC", successor to Diamond Shamrock Chemicals Company), for the investigation of the contaminated sediments located within the Passaic River Study Area as more specifically identified in and pursuant to said ACO. Maxus Energy Corporation ("Maxus"), by contract with OCC, will be performing and/or contracting to perform the work required by the ACO on behalf of OCC.

Date bond executed: April 20, 2000

Effective date of bond: April 20, 2000

Expiration date of bond: April 20, 2001

Principal: Maxus Energy Corporation (performing on behalf of Occidental Chemical Corporation, successor to Diamond Shamrock Chemicals Company)  
717 North Harwood Street  
Dallas, Texas 75201

Type of Organization: Corporation

State of Incorporation: Delaware

Surety(ies): Seaboard Surety Company  
8144 Walnut Hill Lane  
Suite 1199, Lock Box 99  
Dallas, Texas 75231-4345

Total sum of bond: \$ 2,000,000.00

Surety Bond Number: 333300

United States Environmental Protection Agency Region II Contact:

Chief, New Jersey Superfund Branch - 2  
Emergency & Remedial Response Division  
U.S. Environmental Protection Agency, Region II  
26 Federal Plaza  
New York, NY 10278  
Attn: Diamond Alkali Project Manager - Passaic  
River Study Area

The Surety(ies) may cancel the bond prior to the Expiration date by sending notice of cancellation by certified mail to the Principal and to the USEPA contact referenced above; provided, however, the cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the USEPA, as evidenced by the return receipts, nor shall cancellation occur while proceedings to enforce the terms of the ACO are pending or actions to redress any violation of the ACO are underway.

The Principal may terminate the bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for early termination of the bond by the USEPA.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth below.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal: Maxus Energy Corporation [(performing, on behalf of Occidental Chemical Corporation (successor to Diamond Shamrock Chemicals Company))]

By: Wil C. Wadsworth

Date: June 26, 2000

Name: David A. Wadsworth  
Title: Vice President and General Counsel

[Corporate Seal]

Surety(ies): Seaboard Surety Company  
8144 Walnut Hill Lane  
Suite 1199, Lock Box 99  
Dallas, Texas 75231-4345

State of Incorporation: New York

Signature: Deborah Griffith

Date: April 20, 2000

Name and Title: Deborah Griffith, Attorney in Fact

[Corporate Seal]

[For every surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto, are firmly bound to the United States Environmental Protection Agency Region II ("USEPA") in the above sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth above.

WHEREAS, Occidental Chemical Corporation ("OCC") has entered into an Administrative Order on Consent ("ACO") with USEPA dated effective 4/20/94, under which OCC has agreed, among other things, to undertake certain actions in order to investigate contaminated sediments within the "Passaic River Study Area" as described in, and all obligations set forth by, the ACO.

WHEREAS, OCC is required to provide financial assurance during the course of the work for implementation of the obligations set forth by the ACO for any two consecutive calendar quarters then running under the ACO.

WHEREAS, Maxus Energy Corporation, having agreed by private contract to perform the obligations of the ACO on OCC's behalf, is therefore the Principal for purposes of this surety bond.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform its obligations under the Administrative Consent Order, whenever required to do so, regarding the work for which this surety bond guarantees performance, then this obligation shall be null and void, otherwise it is to remain in full force and effect until Expiration of the Bond or completion of the Work, whichever shall first occur.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the USEPA that the Principal has failed to perform as guaranteed by this Bond, the Surety(ies) shall either perform the obligations set forth in the ACO for the calendar quarter in which said notice is received, and the next succeeding calendar quarter, or place sufficient funds up to the sum of this bond in a trust fund for payment as directed by the USEPA for completion of the obligations during such period as set forth in the ACO.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said sum. Any funds remaining in the trust, if any, at the completion and payment of the work under the ACO shall be returned to the Surety(ies).

Seaboard Surety Company  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company  
 St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.

Power of Attorney No. 21170

Certificate No. 448203

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, and that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, and that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, and that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Brian M. Lebow, Lawrence W. Waldie, Allyson Dean, Carmen Mims and Deborah Griffith

of the City of Dallas, State Texas, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed this 18th day of November, 1999

Seaboard Surety Company  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company  
 St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.



State of Maryland  
 City of Baltimore

On this 18th day of November, 1999, before me, the undersigned officer, personally appeared Michael B. Keegan and Michael R. McKibben, who acknowledged themselves to be the Vice President and Assistant Secretary, respectively, of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. and that they, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the names of the corporations by themselves as duly authorized officers.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 13th day of July, 2002.



*Michael B. Keegan*  
 MICHAEL B. KEEGAN, Vice President

*Michael R. McKibben*  
 MICHAEL R. MCKIBBEN, Assistant Secretary

*Rebecca Easley-Onokala*  
 REBECCA EASLEY-ONOKALA, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. on September 2, 1998, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that in connection with the fidelity and surety insurance business of the Company, all bonds, undertakings, contracts and other instruments relating to said business may be signed, executed, and acknowledged by persons or entities appointed as Attorney(s)-in-Fact pursuant to a Power of Attorney issued in accordance with these resolutions. Said Power(s) of Attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman, or the President, or any Vice President, or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the foregoing officers and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Attorney(s)-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and subject to any limitations set forth therein, any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached; and

**RESOLVED FURTHER**, that Attorney(s)-in-Fact shall have the power and authority, and, in any case, subject to the terms and limitations of the Power of Attorney issued them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, Michael R. McKibben, Assistant Secretary of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I hereunto set my hand this 20th day of April, 2000



*Michael R. McKibben*  
 Michael R. McKibben, Assistant Secretary

To verify the authenticity of this Power of Attorney, call 1-800-421-3880 and ask for the Power of Attorney clerk. Please refer to the Power of Attorney number, the above-named individuals and the details of the bond to which the power is attached.